

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

NICHIA CORPORATION,

No. C 06-0162 MMC

Plaintiff,

v.

SEOUL SEMICONDUCTOR CO.,LTD., et al.,

Defendants

**ORDER GRANTING IN PART, DENYING
IN PART, AND DEFERRING RULING ON
IN PART PLAINTIFF'S
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL OPPOSITION AND
CONFIDENTIAL EXHIBITS IN SUPPORT
THEREOF; DIRECTIONS TO CLERK;
DIRECTION TO DEFENDANTS;
DIRECTIONS TO PLAINTIFF**

Before the Court is plaintiff's Administrative Motion to File Documents Under Seal, filed June 30, 2007, by which plaintiff seeks leave to file under seal unredacted versions of its opposition to defendants' motion for summary judgment and portions of a supporting declaration. Having reviewed the motion and the declarations offered in support thereof, the Court rules as follows:

1. The motion is hereby GRANTED in part, and the Clerk is hereby DIRECTED to file under seal unredacted versions of the following three documents:

a. Plaintiff Nichia Corporation's Brief in Opposition to Seoul's Motions for Summary Judgment;

b. Corrected Declaration of Michael J. Song in Support of Plaintiff Nichia Corporation's Brief in Opposition to Seoul's Claim Construction and Motion for Summary

1 Judgment; Confidential Exhibits Thereto (Set One); and

2 c. Corrected Declaration of Michael J. Song in Support of Plaintiff Nichia
3 Corporation's Brief in Opposition to Seoul's Claim Construction and Motion for Summary
4 Judgment; Confidential Exhibits Thereto (Set Two).

5 2. Defendants assert that Exhibit 13 to the above-described Song Declaration is
6 confidential, (see Potter Decl., filed July 5, 2007, ¶ 11.A), but also assert that they have
7 withdrawn their prior designation that Exhibit 13 is confidential, (see id. ¶ 12). It would
8 appear that one of defendants' two references to "Exhibit 13" was intended to be a
9 reference to Exhibit 14. The Court hereby DIRECTS defendants to file a supplemental
10 declaration, no later than July 30, 2007, to clarify the status of Exhibits 13 and 14. The
11 Court hereby DEFERS ruling on plaintiff's motion, to the extent it pertains to Exhibits 13
12 and 14, until July 30, 2007.

13 2. Defendants have designated only portions of Exhibits 31, 32, 57, 60, 69, 103, and
14 115 to the above-described Song Declaration as confidential, (see id. ¶¶ 4-8, Exs. A-D),
15 have withdraw their prior designation of confidentiality as to portions of Exhibits 69, 103,
16 and 115, (see id. ¶ 13), and have withdrawn their prior designation of confidentiality as to
17 the entirety of Exhibits 10, 13, 22, and 23, (see id. ¶ 12). Further, although plaintiff seeks
18 leave to file Exhibit 21 under seal, neither plaintiff nor defendants have asserted any basis
19 to file under seal said exhibit, either in part or in its entirety. Accordingly, the motion is
20 hereby DENIED as to such exhibits or portions thereof, and plaintiff is hereby DIRECTED
21 to file in the public record, no later than July 30, 2007, redacted versions of Exhibits 31, 32,
22 57, 60, 69, 103, and 115 and the entirety of Exhibits 10, 13, 21, 22, and 23. If plaintiff fails
23 to timely file such exhibits in the public record, the Court will not consider them in ruling on
24 defendants' motion for claim construction and for summary judgment.

25 3. Plaintiff has adequately shown that certain lengthy exhibits, specifically, Exhibits
26 24, 40, 43, and 58, "include" information that is confidential. (See Supp. Julian Decl., filed
27 July 9, 2007, ¶¶ 6-8.) Plaintiff has failed to show the entirety of any of said exhibits is
28 confidential, and portions thereof plainly are not, (see, e.g., Song Decl. Ex. 24 at 201-03

1 (witness discussing how a hypothetical product could be designed); id. Ex. 40 at 55
2 (witness testifying as to what he observed at trade show); id. Ex. 43 at 10:15-21 (witness
3 identifying title of his position with employer); id. Ex. 58 at 5-7 (expert generally discussing
4 “LED” products).¹ A party may not designate an entire document as confidential on the
5 ground that the document “includes” some confidential information. See Civil L.R. 79-5(a)
6 (providing request to file document under seal “must be narrowly tailored to seek sealing
7 only of sealable material”). Accordingly, the motion is hereby DENIED to the extent plaintiff
8 seeks to leave to file under seal the entirety of Exhibits 24, 40, 43, and 58, and plaintiff is
9 hereby DIRECTED to file in the public record, no later than July 30, 2007, redacted
10 versions of said exhibits. If plaintiff fails to timely file such redacted versions in the public
11 record, the Court will not consider them in ruling on defendants’ motion for claim
12 construction and for summary judgment.

13 **IT IS SO ORDERED.**

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15 Dated: July 25, 2007

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17 MAXINE M. CHESNEY
18 United States District Judge
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¹These examples are illustrative only.